

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL SEAN SMITH,

Defendant.

CR 13–66–GF–DLC

ORDER

United States Magistrate Judge Keith Strong entered Findings and Recommendation in this matter on September 26, 2013. Neither party objected and therefore they are not entitled to de novo review of the record. 28 U.S.C. § 636(b)(1); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003).

This Court will review the Findings and Recommendation for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Strong recommended this Court accept Michael Sean Smith's guilty plea after Smith appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered his plea of guilty to one count of Illegal Alien in Possession of Firearms in violation of 18 U.S.C. § 922(g)(5), as set forth in the Indictment. Defendant further agrees to the forfeiture of a Taurus .40 caliber semi-automatic handgun (serial number SCR62395); Mossberg 20 gauge shotgun (serial number P684842); Howa .300 caliber rifle (serial number B215941); and Ruger 10/22 rifle (serial number 35429548) as specified in the Plea Agreement.

I find no clear error in Judge Strong's Findings and Recommendation (doc. 30), and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS HEREBY ORDERED that Michael Sean Smith's motion to change plea (doc. 23) is GRANTED.

DATED this 17th day of October, 2013.



Dana L. Christensen, Chief District Judge
United States District Court